

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ANTHONY PALAVIS,

Plaintiff,

v.

CIVIL ACTION NO. 1:20CV276
(Judge Keeley)

COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 26],
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 24],
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 15],
AND DISMISSING CASE WITH PREJUDICE

On December 18, 2020, the plaintiff, Anthony Palavis ("Palavis"), filed a complaint against the Commissioner of the Social Security Administration ("Commissioner") (Dkt. No. 1). Palavis sought review of the Commissioner's final decision denying his application for disability insurance benefits. In accord with 28 U.S.C. § 636 (b) and L.R. Civ. P. 9.02, this action was referred to United States Magistrate Judge Robert W. Trumble for initial review.

In a Report and Recommendation ("R&R") entered on November 9, 2021, Magistrate Judge Trumble recommended that the Court deny Palavis's motion for summary judgment and grant the Commissioner's motion for summary judgment (Dkt. No. 26). Following a careful review of the record, he concluded that the Administrative Law

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Judge's decision to deny benefits contained no legal error and was supported by substantial evidence. Id. at 15.

The R&R informed the parties of their right to file "written objections identifying the portions of the Report and Recommendations to which objection is made, and the basis for such objection." Id. It further warned that failure to do so would result in waiver of the right to appeal. Id. at 15-16. Despite receipt of the R&R, neither party filed objections to the recommendation.

"The Court will review de novo any portions of the magistrate judge's Report and Recommendation to which a specific objection is made...." Dellacirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). The Court will uphold those portions of a recommendation to which no objection has been made unless they are "clearly erroneous." See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005). Failure to file specific objections waives appellate review of both factual and legal questions. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984); see also Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991).

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Having received no objections to the R&R, the Court has no duty to conduct a de novo review of Magistrate Judge Trumble's findings. Following its review of the R&R and the record for clear error, the Court:

1. **ADOPTS** the R&R (Dkt. No. 26);
2. **GRANTS** the Commissioner's Motion for Summary Judgment (Dkt. No. 24);
3. **DENIES** Palavis's Motion for Summary Judgment (Dkt. No. 15);
and
4. **DISMISSES** this civil action **WITH PREJUDICE** and **DIRECTS** that it be stricken from the Court's active docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court **DIRECTS** the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record.

DATED: December 1, 2021

/s/ Irene M. Keeley

IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE